

OF

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAIIIN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAIIJAN 7 2005  
3 at 3 o'clock and 40 min. p.m.  
WALTER A.Y.H. CHINN, CLERK

UNITED STATES OF AMERICA,	)	CR. 01-00263 SOM
	)	
Plaintiff,	)	
	)	ORDER DENYING MOTION FOR
vs.	)	MODIFICATION OF SENTENCE PURSUANT
	)	TO <u>BLAKELY v. WASHINGTON</u>
RICHARD FUJITA, et al.	)	
	)	
Defendants.	)	
_____	)	

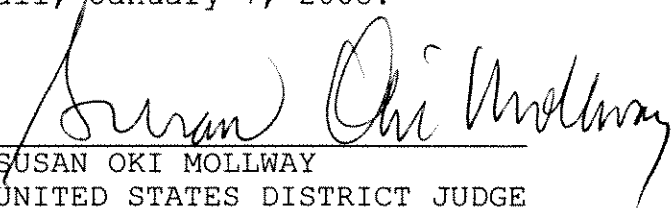
ORDER DENYING MOTION FOR MODIFICATION  
OF SENTENCE PURSUANT TO BLAKELY v. WASHINGTON

Petitioner Richard Fujita moves for modification of his sentence in light of Blakely v. Washington, 124 S. Ct. 2531 (2004). Blakely was not decided until after Fujita had completed his appeal. This court's judgment was entered against him on March 4, 2002, and the Ninth Circuit affirmed on January 16, 2003. Fujita did not seek certiorari in the United States Supreme Court. Having been decided months after Fujita had completed his appeal, Blakely may not serve as a basis for a collateral challenge. See Cook v. United States, 386 F.3d 949, 949 (9<sup>th</sup> Cir. 2004) (holding that Blakely does not apply retroactively via an analogous petition under 28 U.S.C. § 2255).

Fujita's petition is denied. The Clerk of this Court is directed to close this case and to send this order not only to Fujita but also to Thomas Muehleck and Beverly Sameshima.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, January 7, 2005.

  
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SUSAN OKI MOLLWAY  
UNITED STATES DISTRICT JUDGE

United States of America v. Richard Fujita, et al.; Cr. No. 01-00263 SOM; ORDER DENYING MOTION FOR MODIFICATION OF SENTENCE PURSUANT TO BLAKELY v. WASHINGTON